

Constitutional Writ

Present: The Hon'ble Justice Jayanta Kumar Biswas

Judgment on August 23, 2010

W.P.No.17698(W) of 2010

Sudhansu Bhattacharya

-vs-

The Union of India & Ors.

Points:

Maintainability of Writ-Writ petition whether maintainable for taking steps under sec. 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 without considering the objection to the notice under sec. 13(2) of the said Act- Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002-S 13(4)-Constitution of India Art 226

Facts:

The petitioner filed the writ petition alleging that without disposing of the petitioner's objection to the s.13(2) notice the secured creditor has taken steps under s.13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002.

Held:

The petitioner's remedy, if any, was before the Debts Recovery Tribunal under s.17 of the Act. The possession notice is dated August 9, 2010. The ground on which step under s.13(4) has been questioned can be taken in the appeal under s.17. Court finds no reason to examine the worth of the ground when in view of the provisions of the Act the Tribunal is supposed to examine it.

Para 2

Mr. Lakshminath Bhattacharya.... for the petitioner

Nonefor the respondents

The Court: Counsel submits that without disposing of the petitioner's objection to the s.13(2) notice the secured creditor has taken steps under s.13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002.

2. In my opinion, the petitioner's remedy, if any, was before the Debts Recovery Tribunal under s.17 of the Act. The possession notice is dated August 9, 2010 (at p.63). The ground on which step under s.13(4) has been questioned can be taken in the appeal under s.17. I find no reason to examine the worth of the ground when in view of the provisions of the Act the Tribunal is supposed to examine it. I am, therefore, not inclined to interfere in the matter.

3. For these reasons, the art.226 petition is dismissed. No costs. Certified xerox.

(Jayanta Kumar Biswas, J.)

